



Mary-Ann Warmerdam
Director

Arnold Schwarzenegger
Governor

October 4, 2006

DECLARATION OF CIRCUMSTANCES THAT COULD CAUSE AN AGRICULTURAL EMERGENCY

The Director of the Department of Pesticide Regulation declares the existence of circumstances that could cause an agricultural emergency on agricultural establishments applying sulfur for the production of table grapes in the counties of Fresno, Kern, Kings, Madera, and Tulare.

This declaration is made pursuant to Title 3, California Code of Regulations (3 CCR) section 6770, and Title 40, Code of Federal Regulations (CFR 40), Part 170.112(d).

CFR 40, Part 170.112(d)(1) defines "agricultural emergency" as:

An "agricultural emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control and which requires entry into a treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss. A substantial economic loss means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

The existence of circumstances declared under CFR 40, Part 170.112(d)(2) that could cause an agricultural emergency on the establishments specified above are:

- High moisture levels in the fields due to unexpected unseasonable rains on or about October 1, 2006 in grape growing areas of the San Joaquin Valley.
- There is forecasted continuing rain for the next few days.
- These conditions are optimum for mildew and fungal growth.
- There are cultural practices, including harvesting, that use hand labor and are at a critical juncture during this time.
- The agricultural employer could not have anticipated and has no control over these circumstances.

Some agricultural establishments apply sulfur to control fungal disease in table grapes. Critical cultural practices requiring hand labor for the production of table grapes may require worker entry into sulfur-treated vineyards during a restricted-entry interval listed in 3 CCR section 6772 when no alternative practices would prevent or mitigate a substantial economic loss this year to an agricultural establishment in the counties specified above.



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Until December 31, 2006, a worker may enter a sulfur-treated table grape vineyard in the counties specified above during a restricted-entry interval listed in 3 CCR section 6772 to perform tasks including hand labor tasks, necessary to mitigate the effects of an agricultural emergency, **provided the agricultural employer assures the following criteria are met:**

- 1 The agricultural employer determines the specific agricultural establishment is subject to the circumstances declared above which result in an agricultural emergency on that establishment and **notifies the county agricultural commissioner** of the following:
 - a. the caller's name
 - b. the name under which the agricultural establishment operates
 - c. a statement of the intent to use the exemption
 - d. an estimation of the acres of table grapes intended for the exemption.
- 2 Hand labor tasks are not conducted when the temperature exceeds 90 degrees Fahrenheit (F).
- 3 At least 24-hours have elapsed since the sulfur treatment.
- 4 The requirements of 3 CCR sections 6768 and 6771 and applicable provisions of 3 CCR section 6770 have been met.
- 5 As the petitioner for the agricultural emergency the California Grape and Tree Fruit League will submit the following information to the Department after the exemption has ended:

| Agricultural Establishment using exemption | Date Exemption was used | Number of acres under the exemption | Number of workers utilized under the exemption | Task and hours worked under the entry task | Workers reporting any rashes? Yes/No* |
|--|-------------------------|-------------------------------------|--|--|---------------------------------------|
|--|-------------------------|-------------------------------------|--|--|---------------------------------------|

* If the workers reported any cases of rashes, was there a doctor's evaluation. Provide a work history for two-weeks prior to the onset of the rash including tasks performed and a pesticide history for the fields entered.

Briefly describe how the decision was made to enter a particular field under the exemption and what cultural practices were performed during the early entry. Include any information that would give a better understanding of the decision making process to use the exemption.

Describe what means were used to determine that temperatures would be below 90° F and the means used to insure the workers were not in fields if the temperature exceeded 90° F.

Use of this exemption is subject to review and denial by the county agricultural commissioner on a site-specific basis.

Jerry Campbell signed for:

10/4/06

Paul Gosselin, Chief Deputy Director

Date